

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAMONT MONTY TOBY JACOBS,

Plaintiff,

v.

INDERSTYES COMPANY,

Defendant.

No. C10-5049 FDB/KLS

REPORT AND RECOMMENDATION

Noted for: May 7, 2010

This case was referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff filed a civil rights complaint under 42 U.S.C. § 1983 and a motion for leave to proceed *in forma pauperis*. Dkt. 1. However, Plaintiff's application is incomplete. Although the court has directed Plaintiff to complete his application, he has failed to do so. Dkt. 6.

DISCUSSION

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

1 Plaintiff filed a motion to proceed *in forma pauperis* on January 15, 2010. Dkt. 1. On
2 February 9, 2010, the Clerk sent a letter to Plaintiff advising that he must submit a trust account
3 statement showing transactions for the past six months. Dkt. 3. On February 22, 2010, Plaintiff
4 submitted the trust account statement. Dkt. 4. On review of Plaintiff's application for leave to
5 proceed *in forma pauperis*, however, the court noted several deficiencies.

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7 In his application, Plaintiff states that he is currently employed. Dkt. 1, p. 1. Plaintiff
8 does not respond to Question 2.a. of the application, which inquires as to the amount of his
9 salary, wages or gratuity per month, and his employer. *Id.* In response to Question 3, Plaintiff
10 states that in the past twelve months, he has received money from business, profession or other
11 self-employment; rent payments, interest or dividends; pensions, annuities or life insurance;
12 disability or workers compensation; gifts or inheritances, and from other sources. Dkt. 1, p. 2.
13 However, he failed to identify the source of money, the amount received, and the amounts he
14 expects he will continue to receive. Dkt. 1, p. 2. In response to Questions 5 and 6, Plaintiff
15 states that he owns real estate, stocks, bonds, securities or other financial instruments,
16 automobiles or other valuable property and owns other assets. *Id.* Although the application
17 requests that he state the nature of the property and assets and the value of each, Plaintiff has
18 failed to do so. *Id.*

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20 Based on the information provided by Plaintiff in his application, the court is unable to
21 make a proper determination of Plaintiff's eligibility for *informa pauperis* status. Thus, the court
22 directed Plaintiff to provide complete answers to Questions 2a, 3, 5 and 6 on or before March 26,
23 2010. Dkt. 6, p. 2. The court also advised Plaintiff that his failure to do so by the deadline
24 would be deemed a failure to properly prosecute this matter and the court will recommend
25 dismissal.
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1 *CONCLUSION*

2 The undersigned recommends the Court dismiss this action because Plaintiff has failed to
3 comply with the court's order to submit a complete application to proceed *in forma pauperis*.

4 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties
5 shall have fourteen (14) days from service of this Report and Recommendation to file written
6 objections thereto. *See also* Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of
7 those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating
8 the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is directed to set this matter for
9 consideration on **May 7, 2010**, as noted in the caption.
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12 **DATED** this 14th day of April, 2010.

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15 Karen L. Strombom
16 United States Magistrate Judge
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